IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8834 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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RH CHAUHAN - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR YN OZA for Petitioner(s) : 1,
MS ARCHANA RAVAL, AGP : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/05/2006

ORAL JUDGMENT

1. In this petition, the petitioner who was at the relevant time discharging his duties as Executive Engineer, has challenged the order of penalty dated 14.5.92 passed by the State Government. By the said order, the petitioner was ordered to be reverted to the lower post of Deputy Executive Engineer till his retirement.

2. For certain alleged irregularities, a chargesheet dated 28.5.86 came to be issued against the petitioner. There were as many as four charges, gist of which is as

follows:-

(1) Charge No.1: Through misinterpretation of Government resolution dated 5.6.82, the petitioner had purchased 1493 PR valves at a high price of Rs.480 per valve.

(2) Charge No.2: That the said purchase was in contravention of para 198(1) of the PWD Manual;

(3) Charge No.3: That he made the said purchase of valves without correctly assessing the requirement thereof.

(4) That 400 Adjustable Proportionate Modules were purchased by him from Labour Cooperative Societies and had paid 30 per cent higher price for the same in violation of the Government resolutions.

Since he denied the charges, departmental inquiry was set up against him. The Inquiry Officer was appointed and inquiry was conducted. Upon conclusion of the oral inquiry, the Inquiry Officer submitted his report dated 14.9.88. In his report, the Inquiry Officer came to the following conclusions :-

(1)Regarding charge No.1, the same was held to have been partly proved. Contravention of Government resolution

dated 5.6.82 was held to have been proved. Though it was found that the items were purchased at a rate higher than the approved rate, the Inquiry Officer found that there was extenuating circumstances for the same.

(2)Charge No.2 was found to have proved as the purchases were made without inviting tenders.

(3)Regarding charge No.3, it was found that the same is proved. Purchases were made without properly assessing the requirement. It was observed that large number of valves purchases remained unutilized for a long time. It was observed that till 1984, as many as 300 valves remained unutilised.

(4)Charge No.4 was held as partially proved. It was, however, found that the price paid was found to be excessive.

3.The Inquiry Officer's report was made available to the petitioner. The representation made by the petitioner was taken into consideration and the Disciplinary Authority eventually agreeing with the findings of the Inquiry Officer held the petitioner guilty of charges and imposed punishment of reversion to the lower post till his retirement.

4.Through oral submissions, the learned advocate for the

petitioner has tried to assail the order. He has, however, not made out any ground of violation of principles of natural justice in conduct of the inquiry. It can thus be seen that the inquiry was conducted in consonance with the principles of natural justice giving sufficient opportunity to the petitioner to defend his case.

5. I find that there was sufficient material on record to permit the Inquiry Officer as well as the Disciplinary Authority to hold the charges as proved to the extent mentioned above.

6. Learned advocate Shri Mehta for the petitioner has also submitted that this Court cannot examine the issue as an Appellate Authority which otherwise is also a well laid down legal proposition. Since I do not find that there is total lack of evidence, the findings of the Disciplinary Authority cannot be categorized as perverse. The fact that the petitioner made purchases without calling for tender is virtually indisputable. It is also on record that such purchases were made without properly assessing the requirement. It was precisely because of this reason large number of valves remained unutilized for a long time after the purchase was made. The Government purchases are regulated by

rules and regulations laid down by the Government through Government resolutions. There has to be complete transparency and procedural adherence in such purchase failing which, scope for large scale financial irregularities would be left open. The insistence of the Government, therefore, to deal with such cases strictly cannot be found fault with. The petitioner who was holding a responsible post of Executive Engineer, therefore, had to comply with the rules and Government directives before effecting purchases. He was found to have made purchases in excess of the requirement, that too without calling for tenders though the rules so required. I do not find any infirmity in the conclusion arrived at by the Disciplinary Authority.

7. The only question that survives is with respect to the quantum of punishment. It is by now well settled that unless the punishment imposed by the employer is found to be so excessive as to shock the conscience of the Court, this Court would not substitute its own conclusion to that of the employer and to suggest a different penalty. Reference in this case may be made to a decision of the Hon'ble Supreme Court in the case of B.C.Chaturvedi v. Union of India, AIR 1996 SC 484.

8. In the present case, I do not find that the quantum of punishment also calls for interference. As noted earlier, the petitioner who was a responsible officer discharging duties as Executive Engineer is held to have committed irregularities in large scale purchases. Purchases were made without calling for tender and without properly assessing the requirement of the items in question. The reversion order, therefore, cannot be called as excessive punishment.

9. In the result, the petition is rejected. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

(vjn)